

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
RENTON, WASHINGTON 98055-4056**

Exemption No. 5423

In the matter of the petition of

Continental Airlines, Inc.

Regulatory Docket No. 26813

for an exemption from § 121.314
of the Federal Aviation Regulations

GRANT OF EXEMPTION

By letters dated March 11, 1992, and March 16, 1992, W. L. Bolfig, Senior Director, Quality Assurance, Continental Airlines, Inc., P.O. Box 12788, Houston, Texas, 77217-2788, petitioned for exemption from § 121.314 of the Federal Aviation Regulations (FAR) to permit a thirty (30) day extension in the compliance time for the retrofit of Class D cargo compartment liners in Boeing Model 727-100 airplanes. By letters dated November 20, 1990, and February 7, 1991, Mr. Joseph D. Vreeman, Vice President, Engineering and Maintenance, Air Transport Association of America (ATA), petitioned for exemption from §§ 121.314 and 135.169(d) of the FAR to permit up to a 36-month extension in the compliance time for the retrofit of Class C and D cargo compartment liners. The petition was on behalf of all affected operators, and was partially granted in Exemption 5288. The time extension for the Model 727 airplanes expires on March 20, 1992.

Section of the FAR affected:

Section 121.314, as amended by Amendment 121-202, requires, in part, that after March 20, 1991, all Class C and D cargo compartments greater than 200 cubic feet in volume, used on airplanes in air carrier, air taxi, and commercial service, have liners constructed of fiberglass or material satisfying the test requirements of § 25.855, as amended by Amendment 25-60, or, in the case of liners approved prior to March 20, 1989, aluminum. It must be noted that liners constructed of fiberglass, if not previously type certificated for use in the airplane model involved, must be shown to comply with the regulations incorporated by reference in the type certificate for that model.

Related Section of the FAR:

Section 25.855(a-1)(1), as amended by Amendment 25-60, incorporates a new flame penetration test using an oil burner. Unlike § 121.314, which permits the use of fiberglass or aluminum construction, § 25.855(a)(1) requires this test of all liner materials in Class C and D cargo compartments on affected airplanes, regardless of whether or not the material is fiberglass. These test standards are contained in Appendix F, Part III, of Part 25. Except to the extent it is incorporated by reference in § 121.314, this section applies only to transport category airplanes for which an application for type certificate is made after June 15, 1986.

The petitioner's supportive information is as follows:

"This request would be applicable to three (3) B727-100 series aircraft (N18476, N18477, and N18478) presently being operated in Air Micronesia Operation. In developing a method of compliance for the B727 fleet, engineering issued Engineering Authorization (E.A.) 2550-01059 that affected the B727-100 and -200 series aircraft. The necessary materials were obtained and the affected aircraft, excepting for the aircraft noted above, will be modified to meet the requirements prior to the effective date of March 20, 1992. However, while attempting to install the new cargo blankets on the -100 series aircraft it was discovered that the blankets were different in size and pattern than the B727-200 series aircraft. Due to the significant differences, the -200 series blankets cannot be modified to provide a satisfactory level of form, fit and function. Every effort has been made to obtain the subject blankets, however, none could be located. This includes correspondence with the aircraft manufacturer. In providing compliance with the remaining B727-200 fleet, the necessary liner material was obtained from Flight Insulation, Incorporated. The vendor has advised Continental Airlines that raw material availability and the lack of tooling dies precludes any shipment prior to April 1, 1992, as these blankets will have to be hand cut and sewn. Upon obtaining the liners Continental Airlines is committed to delivering the material to Guam and scheduling the aircraft for modification prior to April 19, 1992. This schedule would provide compliance with the subject aircraft that are affected by this request for extension to the compliance period.

"Continental Airlines is making a good faith effort to achieve timely compliance with FAR 121.314. Moreover, an extension would not degrade the current level of safety of the subject aircraft. Failure to extend the compliance date would result in substantial reduction in our Air Micronesia operation and inconvenience to the public wherein scheduled revenue service is provided.

"It should be noted that the subject E.A. will provide compliances with eighty-two (82) B727-200 series aircraft by March 20, 1992. The remaining three (3) B727-100 aircraft are the subject of this request for extension."

The FAA finds, for good cause, that action on this petition should not be delayed for publication and comment procedures for the following reasons: (1) a grant of exemption would not set a precedent in that this matter involves circumstances of this industry's efforts to achieve compliance prior to the deadline established by the regulation; and (2) delay in acting on the petition would be detrimental to the petitioner in that it could result in removal of aircraft from service. The FAA was first made aware of the extent of compliance problems with this regulation by means of petitions for exemption filed by the Air Transport Association and the Regional Airline Association in late 1990. Exemptions were granted to those organization (on behalf of affected operators) with the understanding that service information would be forthcoming from the airframe manufacturers as needed to achieve compliance. The compliance deadlines, as stated in those exemptions, were based on the scheduled release dates of service information and the associated time required to implement the modifications.

The Federal Aviation Administration's analysis/summary is as follows:

The petitioner's request is limited to an extension of the compliance time, as already extended by Exemption 5288 granted to ATA.

In 1989, Continental received Boeing Service Letter 727-SL-25-29-B recommending cargo door liner modifications. In late 1990, Continental asked Boeing to identify all Model 727 cargo door configurations. Boeing identified five such configurations which were confirmed in their Illustrated Parts Catalog. Continental immediately started design efforts on their fleet of Boeing Model 727 airplanes to develop a single design for all five doors. All Continental's domestic 727's were fitted with liners to that single design. However, it was subsequently identified that earlier model aircraft, located on Guam, had a sixth door configuration (not identified in the Illustrated Parts Catalog) and the liner would not fit. Upon becoming aware of this situation, Continental immediately began redesigning efforts and petitioned the FAA for extension of compliance time. We conclude that Continental made all reasonable efforts to identify the configurations subject to modification.

Other information as discussed in Exemption 5288 continues to be relevant to this petition. In particular, the cost of compliance and potential removal of airplanes from service were considered to be of minimal impact when the regulation was developed. The petitioner notes that all of the petitioner's 727-200 series airplanes will have been modified by the date required in Exemption 5288. In addition, for the 727, the modifications pertain only to the cargo door liner. The remainder of the cargo compartment complies with the requirements.

The petitioner has requested thirty (30) days in addition to the time already granted in Exemption 5288. As noted earlier, the FAA has attempted to balance the timeliness of compliance with the safety improvement provided by the new regulations. In this case Continental's entire 727 fleet would have been completed within the time extension granted by Exemption 5288 except for the discovered differences in the cargo doors. The applicant has made an effort to obtain the appropriate door liners for the three 727-100 airplanes in question, and has been able to get a commitment from the supplier for delivery by April 1, 1992. Noting that after receipt, the liners must then be delivered to Guam for installation, a new completion date of April 19, 1992, appears appropriate.

In consideration of the foregoing, I find that a grant of exemption is in the public interest and will not affect the level of safety provided by the regulations. Therefore, pursuant to the authority contained in §§ 313(a) and 601(c) of the Federal Aviation Act of 1958, delegated to me by the Administrator (14 CFR 11.53), Continental Airlines is hereby granted an exemption to permit operation, under the provisions of Part 121 of the FAR, of airplanes that do not comply with the provisions of § 121.314 of those parts. The following limitations apply to this exemption:

1. This exemption is limited to Boeing Model 727 airplanes.
2. This exemption expires on April 19, 1992.

All other provisions of Exemption 5288, together with its conditions and limitations, remain the same and are applicable to this exemption.

Issued in Renton, Washington, on March 19, 1992.

David G. Hmiel, Acting Manager,
Transport Airplane Directorate
Aircraft Certification Service

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